

REMARKS/ARGUMENTS

The Office Action of July 20, 2010, has been reviewed and these remarks are responsive thereto. Claims 11 and 36 were previously canceled, and claims 3, 4, 13, 14, 28, 29, 38, and 39 have been canceled in the present paper, all without prejudice or disclaimer. No new matter has been added. Claims 1, 2, 5-10, 12, 15-27, 30-35, 37, and 40-51 are presented for examination upon entry of the present paper. Reconsideration and allowance of the instant application are respectfully requested.

Claim Rejections under 35 U.S.C. § 103

Claims 1-7, 9, 10, 12-17, 20-35, 37-42, and 45-51 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. pub. no. 2003/0086425 to Bearden et al. (“Bearden”) in view of U.S. pat. no. 6,185,598 to Farber et al. (“Farber”), and further in view of U.S. pat. no. 6,763,380 to Mayton et al. (“Mayton”). Claim 8 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Bearden in view of Farber and Mayton, and in further view of U.S. pat. no. 5,958,010 to Agarwal et al. (“Agarwal”). Claims 18, 19, 43, and 44 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bearden in view of Farber and Mayton, and in further view of U.S. pub. no. 2002/0169857 to Martija et al. (“Martija”). These rejections are traversed below.

Amended claim 1 recites, among other features, “configuring a hardware probe to trace the traffic of said user and to provide information including: protocol-subdivision, IP address-subdivision, and a traffic matrix between the user and the network.” The amended features are supported by the filed specification when read as a whole, and for example, at page 12 (starting with the paragraph that reads “[t]o do this, the solution employs specific, known hardware probes . . .”). The amended features of claim 1 are similar to features previously recited in (now-canceled) claims 3 and 4.

In rejecting claim 4, the Office Action at page 5 contended that Bearden at paragraph [0206] described an operation of configuring hardware probes to provide information *selected in a group* consisting of: band of use of the individual link, data volume, protocol-subdivision, IP address-subdivision, and traffic matrix between the user and the network. Bearden at paragraph

[0206]-[0208] merely describes a network device monitoring component 320 that collects traffic, utilization, and error measurements from devices in a network under consideration. Even assuming (without admitting) that the collection of traffic, utilization, and error measurements by network device monitoring component 320 could have been analogized to a hardware probe configured to provide information on one or more of: band use of an individual link and data volume (as previously recited in now-canceled claim 4), Bearden fails to disclose the network device monitoring component 320 (e.g., the alleged hardware probe) is configured to provide information on protocol-subdivision, IP address-subdivision, *and* a traffic matrix between the user and the network. Accordingly, amended claim 1 is distinguishable from Bearden.

Notwithstanding whether the alleged combination of documents would have been proper, Farber and Mayton fail to remedy the deficiencies of Bearden described above with respect to claim 1. Claim 1 is distinguishable from the applied documents for at least the foregoing reasons.

Amended independent claims 26 and 51 recite features similar to those described above with respect to claim 1 and are distinguishable from the applied documents for at least substantially similar reasons.

The dependent claims are distinguishable from the applied documents for at least the same reasons as their respective base claims, as any of the additional documents (e.g., Agarwal and Martija) fail to remedy the deficiencies of Bearden, Farber, and Mayton discussed above (notwithstanding whether any of the alleged combinations of documents would have been proper).

The dependent claims are further allowable in view of the unique combinations of features recited therein. For example, claim 21 recites “performing a plurality of said tracing functions in parallel during said first stage.” The Office Action at page 7 contends that Bearden at paragraph [0117] describes such features. Bearden at paragraphs [0104]-[0117] describes a “device discovery” stage as part of a “topology discovery phase,” where the device discovery stage merely finds devices in the network. Any alleged parallel functions described in paragraph [0117] of Bearden merely relate to device discovery, and not tracing (much less the tracing

Appln. No.: 10/527,333
Response dated October 12, 2010
Office Action dated July 20, 2010

recited in claim 1 from which claim 21 depends). Accordingly, claim 1 is allowable for at least these additional reasons. Similar remarks apply with respect to claim 46.

CONCLUSION

If any fees are required or if an overpayment is made, the Commissioner is authorized to debit or credit our Deposit Account No. 19-0733, accordingly.

All rejections having been addressed, Applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicit prompt notification of the same.

Respectfully submitted,
BANNER & WITCOFF, LTD.

Dated: October 12, 2010

By: /Mark E. Wilinski/
Mark E. Wilinski
Registration No. 63,230

1100 13th Street, N.W., Suite 1200
Washington, D.C. 20005-4051
Tel: (202) 824-3000
Fax: (202) 824-3001